

REMARKS

Claims 1-9 and 11-20 will be pending upon entry of the present amendment. Claim 1 is being amended. Claims 6-7 were allowed. Claim 10 was previously canceled. Claims 17-20 are new. No new matter is being presented.

The applicants appreciate the indication that claims 12-13 are directed to allowable subject matter. These claims are not being placed in independent form, because the applicants believe that claim 8, from which claims 12-13 depend, is nonobvious in view of the cited prior art.

Claims 1-5 were rejected to under 35 U.S.C. § 112, first paragraph, as failing to comply with the enablement requirement. In particular, the Examiner objected to the language of claim 1 that stated, "during which the data transfer function is suspended." Claim 1 is being amended to remove the objectionable language, although one skilled in the art would understand that an "inactivity interval" as recited in claim 1 would be an interval during which the data transfer function is suspended. However, such language is not needed for a clear understanding of claim 1. Accordingly, claims 1-5 are enabled by the original disclosure.

Claims 8, 9, 11, and 14-16 were rejected under 35 U.S.C. § 103 as being unpatentable over U.S. Patent No. 6,570,911 to O'Mahony ("O'Mahony") in view of EP-0772370A to Davis et al. ("Davis").

O'Mahony and Davis do not teach or suggest the invention recited in claim 8. Claim 8 recites a method that includes dividing a data transfer function into phases by inactivity intervals during which the data transfer function is suspended. Code segments are respectively associated with the phases. In addition, claim 8 recites downloading a code segment during one of the inactivity intervals prior to the commencement of the respective phase.

O'Mahony and Davis do not teach or suggest inactivity intervals during which a data transfer function is suspended. O'Mahony teaches a method for controlling modem data pump parameters. The data pump in O'Mahony operates continuously, processing data in real-time. In fact, O'Mahony teaches that inactivity of data pump processing is not acceptable since data is lost during periods of suspension (see col. 5, lines 16-25). Likewise, Davis does not mention an inactivity intervals In contrast, the claimed invention discloses inactivity intervals during which the data transfer function is suspended.

The applicants have reviewed the Examiners citation of three-columns (col. 4, line 30 – col. 7, line 7) of O'Mahony, but have not found any mention or implication of an inactivity intervals. The applicants are guessing that the Examiner intends to focus on O'Mahoney's detection of a change in the work-load of the processor. However, such a change in the work-load of the processor does not imply or necessitate an inactivity intervals. As column 4 of O'Mahony makes clear, such a change in the work-load of the processor can simply mean a change from one process to another in a multi-processing system or a change from one application program to another. In neither situation is an inactivity interval implied or required.

O'Mahony and Davis also do not teach or suggest downloading a code segment during an inactivity interval. O'Mahony teaches the generation of a set of parameters for a modem data pump. As discussed above, the modem data pump in O'Mahony operates continuously, without inactivity intervals to prevent loss of data. Consequently, even if O'Mahony did download code segments, the code segments could not be downloaded during inactivity intervals of a data transfer function. Likewise, as mentioned above, Davis does not refer to or imply an inactivity intervals, and thus, cannot suggest downloading code segments during such inactivity intervals.

The applicants have also tried to determine which part of columns 4-7 of O'Mahoney the Examiner believes to suggest the step downloading code segments during inactivity intervals, but the applicants have no idea what is being referred to. Figures 3-4 of O'Mahoney, which are discussed in columns 4-7, merely show a determination of a change in processor work-load based on either a request to begin execution of an application program (Fig. 3) or a change in processing time of a first sequence of instructions for implementing a modem data pump (Fig. 4). The applicants do not understand how either of those processes suggests downloading code segments during inactivity intervals.

For the foregoing reasons, claim 8 is nonobvious in view of O'Mahony and Davis.

Claims 9 and 11 depend on claim 8, and thus, are also nonobvious in view of the cited prior art.

Although the language of claims 14-16 is not identical to that of claims 8-9 and 11, the nonobviousness of claims 14-16 will be apparent in view of the above discussion.

New claims 17-20 each depend on one of independent claims 1, 6, 8, and 14, and thus, are allowable for the reasons expressed above. In addition, each of claims 17-20 recites additional features that are not taught or suggested by the cited prior art. In particular, claims 17-20 relate to the downloading of a downloader from an external second memory to an internal first memory and the use of the downloaded downloader to download the code segments. Neither O'Mahony nor Davis teaches or suggest the use of such a downloaded downloader to download code segments. Accordingly, claims 17-20 are further nonobvious in view of the cited prior art.

The Director is authorized to charge any additional fees due by way of this Amendment, or credit any overpayment, to our Deposit Account No. 19-1090.

All of the claims remaining in the application are now clearly allowable. Favorable consideration and a Notice of Allowance are earnestly solicited.

Respectfully submitted,

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RXI:lmr

Enclosures:

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Petition For Extension of Time

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